

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed**

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services amends Chapter 153, "Funding for Local Services," Iowa Administrative Code.

These amendments rescind the amendments that were Adopted and Filed Emergency and published in the Iowa Administrative Bulletin on December 12, 2009, as **ARC 8319B**, and readopt them after a notice period to solicit public comments.

The amendments specify how the State Payment Program will implement a waiting list. Implementation of the waiting list is necessary for the state to operate within the reduced appropriation due to Executive Order Number 19, which mandated a 10 percent across-the-board spending reduction.

New applicants will be placed on a waiting list until the Department determines there is money to fund another applicant's services. The rules specify the procedures for submitting applications, determining the application date, and determining the priority of services for persons on the waiting list. Placement on the waiting list will not apply to persons applying to the program for payment of commitment costs.

Notice of Intended Action to solicit comment on these amendments was published in the December 12, 2009, Iowa Administrative Bulletin as **ARC 8320B**. The Department received no comments on the Notice of Intended Action. However, rules Adopted and Filed Emergency that were published in the Iowa Administrative Bulletin on January 13, 2010, as **ARC 8486B** made further amendments to some of the provisions of the rules originally Adopted and Filed Emergency as **ARC 8319B**. Therefore, these amendments contain the following changes to the amendments published as **ARC 8319B** and **ARC 8320B**:

- The introductory paragraph of subrule 153.54(5) now reads: "The department shall start a waiting list when analysis of submitted expenditure reports indicates that the amount of funds needed to pay for the currently assigned payment slots exceeds the state payment program appropriation."

- Paragraph 153.54(5)"b" now reads: "When a waiting list is in effect, all new applications shall be placed on the waiting list with the exception of applicants who are subject to an involuntary commitment. Applicants who are subject to an involuntary commitment are exempted from waiting list placement for the services listed on the court order when the CPC includes a copy of relevant court orders directing services under Iowa Code chapter 229 for which payment is sought. If this documentation is not included, the application will be placed on the waiting list."

- Subrule 153.58(1) now reads: "Decisions regarding denial or termination of state payment program eligibility, including disenrollment, may be appealed to the department pursuant to 441—Chapter 7. Continuation of assistance will be granted pursuant to rule 441—7.9(17A)."

These amendments do contain provisions for a waiver for services provided under an involuntary commitment only. Requests for the waiver of any provision of the rules may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

The Mental Health, Mental Retardation, Developmental Disabilities, and Brain Injury Commission adopted these amendments on February 18, 2010.

These amendments are intended to implement Executive Order Number 19 and Iowa Code section 331.440.

These amendments shall become effective on April 14, 2010.

The following amendments are adopted.

ITEM 1. Rescind paragraph **153.53(2)"a"** and adopt the following new paragraph in lieu thereof:

a. A funding request for the applicant showing:

- (1) The services being requested,
- (2) The total monthly dollar amount needed for the services requested, and
- (3) The chart of accounts codes from the county billing system for the requested services.

ITEM 2. Rescind subrule 153.53(4) and adopt the following **new** subrule in lieu thereof:

**153.53(4) Application date.**

*a. Waiting list not in effect.* When a waiting list is not in effect, the application date shall be the latest of the following dates:

- (1) The date on court commitment documents,
- (2) The date on the CPC application form, or
- (3) 60 days before the division receives the complete application, if the complete application is received more than 60 days after the date on the CPC application form.

*b. Waiting list in effect.* When a waiting list is in effect pursuant to subrule 153.54(5), the date of application shall be:

- (1) The date on court commitment documents, or
- (2) The date the application is moved off the waiting list.

ITEM 3. Rescind paragraph **153.54(2)“b”** and adopt the following **new** paragraph in lieu thereof:

*b.* An application shall be approved only when funds are available. When funds are insufficient, the application shall be placed on a statewide waiting list pursuant to subrule 153.54(5).

ITEM 4. Rescind subrule 153.54(5) and adopt the following **new** subrule in lieu thereof:

**153.54(5) Waiting list.** The department shall start a waiting list when analysis of submitted expenditure reports indicates that the amount of funds needed to pay for the currently assigned payment slots exceeds the state payment program appropriation.

*a. Notice of waiting list.* The department shall notify county CPCs:

- (1) Before implementing a waiting list, and
- (2) Promptly when the department determines a waiting list is no longer required.

*b. Placement on the waiting list.* When a waiting list is in effect, all new applications shall be placed on the waiting list with the exception of applicants who are subject to an involuntary commitment. Applicants who are subject to an involuntary commitment are exempted from waiting list placement for the services listed on the court order when the CPC includes a copy of relevant court orders directing services under Iowa Code chapter 229 for which payment is sought. If this documentation is not included, the application will be placed on the waiting list.

*c. Movement off the waiting list.* The department shall review the waiting list every 30 days. As funds are determined available, applications shall be moved off of the statewide waiting list. Applicants shall be served on a first-come, first-served basis, as determined by the date and time the complete application is received in the division office.

(1) In cases where applications are received simultaneously, the applicants will be prioritized by the birth month and day (earliest birth date first).

(2) If there are multiple applicants with the same birth month and day, the last four digits of the applicants' social security numbers will be used, with the lowest number being considered first.

*d. Notification of applicant status.* The department shall notify the CPC of each applicant's status quarterly, unless an application can be removed from the waiting list sooner. When the department notifies the CPC that an application can be removed from the waiting list, the CPC shall:

- (1) Verify with the applicant that the services are still needed, and
- (2) Notify the applicant that service funding is available for services identified.

ITEM 5. Rescind subrule 153.58(1) and adopt the following **new** subrule in lieu thereof:

**153.58(1)** Decisions regarding denial or termination of state payment program eligibility, including disenrollment, may be appealed to the department pursuant to 441—Chapter 7. Continuation of assistance will be granted pursuant to rule 441—7.9(17A).

ITEM 6. Amend ~~441~~**Chapter 153**, implementation sentence for division IV, as follows:  
These rules are intended to implement Iowa Code section 331.440 as amended by 2006 Iowa Acts,  
~~chapter 1115, division III.~~

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/10.